

REMARKS

This responds to the Office Action mailed on November 16, 2007.

Claims 1 and 7 are amended, claims 12-16 are canceled, and claim 17 is added; as a result, claims 1-11 and 17 are now pending in this application.

§112 Rejection of the Claims

Claims 7 was rejected under 35 U.S.C. § 112, second paragraph, for indefiniteness.

Applicant has amended claim 7 to overcome the 35 U.S.C. § 112 rejection.

§103 Rejection of the Claims

Claims 1-11 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Lion (U.S. 6,330,491).

Claims 1-6

Applicant has amended claim 1 to better describe the subject matter recited in the claim. Applicant believes claim 1 is not obvious in view of the cited reference since the reference does not include or suggest each limitation recited in the claim. For instance, Applicant cannot find in the cited reference: the patient being able to selectively cancel the transaction and after cancelling the transaction, receiving a traditional prescription, as recited in claim 1.

The Office Action states that it “would have been obvious ... that when the keypad is non-functional or broken and/or the dispenser is incapable of recognizing an input from the customer, the customer would still have the prescription receipt obtained online or mail order and bring it to the store front.” (Office Action, page 4).

However, the reference does not include or suggest receiving a traditional prescription after cancelling the transaction. In the scenario discussed in the Office Action, an unscrupulous customer could theoretically get two prescriptions since if the prescription receipt or mail order could be used to get a prescription, the prescription filler would have no way of knowing whether the prescription had been filled already. In contrast, the present claim does not provide a traditional prescription until after the transaction is cancelled.

Claims 2-6 and 17 include each limitation of their parent claim and are therefore also not obvious in view of the cited reference.

Regarding new claim 17, Applicant cannot find any suggestion or motivation to modify the cited reference to allow for the dispensing apparatus to print the traditional prescription after the transaction is cancelled.

Claims 7-11

Applicant traverses the rejection of claim 7. Applicant believes claim 7 is not obvious in view of the cited reference since the reference does not include or suggest each limitation recited in the claim. For instance, Applicant cannot find in the cited reference: "the patient inputting the authorization code into the dispenser and the patient entering separate patient authorization data into the dispenser," as recited in claim 7.

It does not appear that the cited reference uses or needs both an authorization code and a separate patient authorization data, as recited in claim 7. In contrast, the reference discusses that the user inputs authentication data (see col. 4, lines 27-54). Once the user authenticates their ID, it is matched with an Rx and the medication is delivered. The present claim requires the user to input both an authorization code and separate patient authorization data, before the medication will be delivered.

Claims 8-11 include each limitation of their parent claim and are therefore also not obvious in view of the cited reference.

Claims 12-13 and 15-16 were rejected under 35 USC § 103(a) as being unpatentable over Schoomen (U.S. 6,230,927) in view of Williams et al. (U.S. 6,036,812) and Chudy (U.S. 6,370,841).

Claim 14 was rejected under 35 USC § 103(a) as being unpatentable over Schoomen, modified by Williams et al. and Chudy, further in view of Monich et al. (U.S. 6,335,907).

Claims 12-16 are cancelled without prejudice or disclaimer. Applicant reserves the right to reintroduce claims 12-16 at a later time in a continuation application.

Reservation of Rights

In the interest of clarity and brevity, Applicant may not have equally addressed every assertion made in the Office Action, however, this does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

AMENDMENT AND RESPONSE UNDER 37 CFR § 1.111

Serial Number: 10/784,507

Filing Date: February 23, 2004

Title: AUTOMATIC PRESCRIPTION DRUG DISPENSER

Page 8

Dkt: 1326.001US5

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 359-3267 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(612) 359-3267

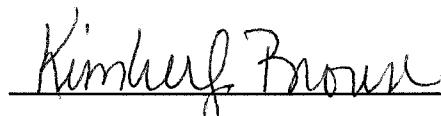
Date 2/19/2008

By 
Peter C. Maki
Reg. No. 42,832

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 19th day of February 2008.

KIMBERLY BROWN

Name


Signature